



King & Wood Mallesons LLP

500 Fifth Avenue
50th Floor
New York NY 10110
www.kwm.com

July 28, 2020

VIA ECF

Hon. Lewis J. Liman
United States District Court
Southern District of New York
500 Pearl Street, Room 701
New York, NY 10007

LimanNYSDChambers@nysd.uscourts.gov

Re: Convergen Energy LLC, et al. v. Brooks et al., No. 1:20-cv-3746 (LJL)

Motion for Extension of Time to Respond to Complaint

Dear Judge Liman:

King & Wood Mallesons LLP (“KWM”) is counsel to Daniel Escandon Garcia, Ramon Uriarte Inchausti, Chipper Investment SCR, SA, and Urincha SL (collectively, the “Spanish Defendants”). For the reasons stated herein, the Spanish Defendants respectfully request that the Court grant them an extension to the deadlines provided in Federal Rules of Civil Procedure (“Rules”) so that they may jointly respond to the Complaint in this action.

On July 17, 2020, the Court granted Plaintiffs’ Motion for Alternative Service, permitting Plaintiffs to serve the Spanish Defendants by postal channels and to serve Defendants Inchausti and Urincha by email. (D.E. 89). On July 17, 2020, Plaintiffs served Mr. Inchausti and Urincha by email. On July 22, 2020 Plaintiffs served Chipper Investment SCR SA. As of the date of this letter, Plaintiffs have not served defendant Daniel Escandon Garcia.

Given the differences in the timing of service, the Spanish Defendants currently have different response deadlines under Rule 12. Mr. Inchausti and Urincha must respond to the complaint by August 7, 2020, and Chipper must respond by August 12, 2020. Mr. Garcia has yet to be served and therefore his deadline to respond cannot be calculated, but it is likely to be in late August or early September. Indeed, even if Mr. Garcia were served on the date of this letter (he has not), his response would be not be due until August 18, 2020.

As noted in their response to Plaintiffs’ Motion for Alternative Service, the Spanish Defendants intend to move to dismiss the action for lack of personal jurisdiction and on its merits. (D.E. 66). Rather than separately filing and briefing three different motions to dismiss for each Defendant, Mr. Garcia would consent to a waiver of service of process so that all the Spanish Defendants could jointly respond to the Complaint. In these premises, the Spanish Defendants respectfully request that the Court grant them leave to file a joint response to the Complaint by

August 21, 2020.¹

Further, many of the jurisdiction-related documents are in Spanish and must be translated prior to their admission before this Court. *Chen v. Wai? Café, Inc.*, No. 10 Civ. 7254, 2016 WL 722185, at *6 n.5 (S.D.N.Y. Feb. 19, 2016) (explaining that it is a “well-established rule that a document in a foreign language is generally inadmissible unless accompanied by a certified English translation.”). Accordingly, the requested extension would also permit the Spanish Defendants to translate the relevant jurisdictional documents in an orderly fashion and thereby present the Court with a comprehensive view of the relevant facts. The requested extension will affect no currently scheduled matters in the action and is not made for the purposes of delay. This is the Spanish Defendants’ first request for an extension of time.

We conferred with Plaintiffs’ counsel on July 20, 2020, and requested the foregoing extension on behalf the Spanish Defendants. We likewise offered to waive and accept service of process on behalf of all of the Spanish Defendants. Nevertheless, Plaintiffs refused to consent to any extension. The reason counsel provided was more of the same baseless diatribe – asserting false dilatory behavior on behalf of the Spanish Defendants and “gamesmanship” on the part of their counsel. Neither is true. Now that the service issues have been resolved by the Court, the Spanish Defendants seek only an efficient and orderly resolution of this matter, which the requested extension will facilitate.

For the aforementioned reasons, the Spanish Defendants respectfully request that the Court enter an Order setting August 21, 2020, as the date for the Spanish Defendants to jointly respond to the Complaint in this action.

Respectfully submitted,



Vincent Filardo, Jr.

KING AND WOOD MALLESONS LLP
500 Fifth Avenue, 50th Floor
New York, NY 10110
Tel.: (347) 926-7570
vincent.filardo@us.kwm.com

Counsel for Defendants Daniel Escandon Garcia, Ramon Uriarte Inchausti, Chipper Investment SCR, S.A., and Urincha, SL

GRANTED. The Spanish Defendants shall answer or otherwise respond to the Complaint by August 21, 2020.

SO ORDERED. 7/29/2020.



LEWIS J. LIMAN
United States District Judge

¹ The requested extension would provide only a fourteen-day extension to time for Mr. Inchausti and Urincha to respond to the Complaint, and a nine-day extension to the time for Chipper to respond to the Complaint.